

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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|-----------------------|------------------|
| CARRIE SUMMERVILLE |) CIVIL DIVISION |
| |) |
| Plaintiff, |) No. |
| |) |
| v. |) |
| |) |
| PROGRESSIVE SPECIALTY |) |
| INSURANCE COMPANY, |) |
| |) |
| Defendant. |) |

NOTICE OF REMOVAL

NOW, comes the Defendant, Progressive Specialty Insurance Company, ("Progressive"), by and through its attorneys, Dapper, Baldasare, Benson, Behling & Kane, P.C., and Forry Ullman and files this Notice of Removal pursuant to 28 U.S.C. § 1441, *et seq.* Progressive submits that the United States District Court for the Eastern District of Pennsylvania has original diversity jurisdiction over this civil action and this matter may be removed to the District Court in accordance with the procedures provided at 28 U.S.C. §1446. In further support of this Notice of Removal, Progressive states as follows:

1. Plaintiff, Carrie Summerville, filed a Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania on or about June 25, 2009. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit "A."
2. Progressive received a copy of the Complaint on or about June 25, 2009.
3. In addition to the Complaint, an Acceptance of Service was filed in connection with the state court action. A copy of the Acceptance of Service is attached hereto as Exhibit "B." The Exhibits attached hereto constitute all of the pleadings filed in connection with the state court action.

4. Plaintiff, Carrie Summerville, is an adult individual residing in Philadelphia County, Pennsylvania. Both at the time Plaintiff initiated this action and this removal, Plaintiff was a citizen of Pennsylvania.

5. Progressive is not a Pennsylvania corporation, nor does Progressive have its principal place of business in Pennsylvania. Rather, Progressive is an Ohio corporation with its principal place of business in Ohio with an address of 6300 Wilson Hills Road, Mayfield Village, Ohio 44143. Both at the time Plaintiff initiated this action and this removal, Progressive was a citizen of Ohio.

6. Plaintiff's Complaint asserts claims for breach of contract and insurance bad faith.

7. The breach of contract count pertains to an insurance contract which allegedly provides underinsured motorist coverage in the amount of \$50,000. The count demands damages in excess of the arbitration limit of \$50,000 and contains various claims for unliquidated damages arising out of alleged injuries that "are or may be pertinent in nature," including physical pain, mental anguish, past and future medical expenses, loss of earnings and earning capacity, and Plaintiff's inability to "attend to her usual and daily duties and occupation."

8. The bad faith count alleges that Progressive engaged in wanton and reckless conduct with regard to the welfare, interest and rights of the Plaintiff and that Progressive is liable for interest, costs, attorney fees, compensatory and punitive damages, in an amount in excess of the arbitration limits in Philadelphia County of \$50,000.

9. Accordingly, because Plaintiff's various claims for unliquidated damages include compensatory damages, punitive damages, interest, costs of suit and attorneys' fees, the amount in controversy exceeds the jurisdictional requirement of \$75,000.

10. Since Plaintiff and Progressive are citizens of different states, and because the amount in controversy exceeds \$75,000, the United States District Court for the Eastern District of Pennsylvania has original jurisdiction over this matter. See 28 U.S.C. §1332.

11. Section 1332 confers original jurisdiction over all civil matters where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

12. Progressive submits that this matter may be removed to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1441, which permits removal of any civil action to the district courts that have original jurisdiction.

WHEREFORE, Defendant, Progressive hereby removes this civil action to the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §1441.

Respectfully submitted,

DAPPER, BALDASARE, BENSON,
BEHLING & KANE, P.C.

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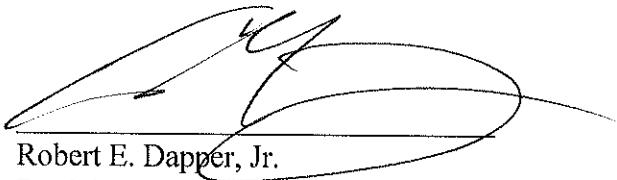
*Attorneys for Defendant, PROGRESSIVE
SPECIALTY INSURANCE COMPANY*

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the within **NOTICE OF REMOVAL** was served by U.S. First Class Mail, postage pre-paid, this 22nd day of July 2009, upon the following:

Daniel M. Jaffe, Esquire
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Counsel for Plaintiffs



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